

Supreme Court of Judicature (Amendment) Bill

Bill No. 25/2010.

Read the first time on 15th September 2010.

A BILL

i n t i t u l e d

An Act to amend the Supreme Court of Judicature Act (Chapter 322 of the 2007 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Supreme Court of Judicature (Amendment) Act 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 16

2. Section 16(1) of the Supreme Court of Judicature Act (referred to in this Act as the principal Act) is amended by deleting the words “a writ or other originating process” in paragraph (a) and substituting the words “a writ of summons or any other originating process”.

Amendment of section 20

3. Section 20 of the principal Act is amended by deleting paragraph (a).

Amendment of section 21

4. Section 21 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Subject to the provisions of this Act and any other written law, an appeal shall lie to the High Court from a decision of a District Court or Magistrate’s Court —

(a) in any case where the amount in dispute, or the value of the subject-matter, at the hearing before that District Court or Magistrate’s Court (excluding interest and costs) exceeds \$50,000 or such other amount as may be specified by an order made under subsection (3); or

(b) with the leave of that District Court or Magistrate’s Court or the High Court, in any other case.”; and

(b) by inserting, immediately after subsection (2), the following subsections:

“(2A) An order of the High Court giving or refusing leave under subsection (1)(b) shall be final.

(2B) No appeal shall be brought to the High Court in any case where a District Court or Magistrate’s Court makes an

order specified in the Third Schedule, except in such circumstances as may be specified in that Schedule.”.

Deletion and substitution of sub-heading to Part III

5 **5.** Part III of the principal Act is amended by deleting the sub-heading immediately before section 23 and substituting the following sub-heading:

“Supervisory and Revisionary Jurisdiction”.

Amendment of section 27

6. Section 27 of the principal Act is amended by inserting, immediately after subsection (3), the following subsection:

10 “(4) The High Court shall, when exercising (or deciding whether to exercise) its supervisory and revisionary jurisdiction under subsection (1) or powers under subsection (2) in relation to any matter which concerns a case where the High Court has heard and determined an appeal from a subordinate court, have regard to whether that matter
15 was, or could reasonably have been, raised in that appeal.”.

New sub-heading to Part III and new section 28B

7. Part III of the principal Act is amended by inserting, immediately after section 28A, the following sub-heading and section:

“Further Arguments

20 **Further arguments before Judge exercising civil jurisdiction of High Court**

25 **28B.**—(1) Before any notice of appeal is filed in respect of any judgment or order made by a Judge, in the exercise of the civil jurisdiction of the High Court, after any hearing other than a trial of an action, the Judge may hear further arguments in respect of the judgment or order, if any party to the hearing, or the Judge, requests for further arguments before the earlier of —

- (a) the time the judgment or order is extracted; or
- (b) the expiration of 14 days after the date the judgment or order
30 is made.

(2) After hearing further arguments, the Judge may affirm, vary or set aside the judgment or order.

(3) If any request for further arguments has been made under subsection (1) —

- 5 (a) no notice of appeal shall be filed in respect of the judgment or order until the Judge —
 - (i) affirms, varies or sets aside the judgment or order after hearing further arguments; or
 - (ii) certifies, or is deemed to have certified, that he requires
- 10 (b) the time for filing a notice of appeal in respect of the judgment or order shall begin on the date the Judge —
 - (i) affirms, varies or sets aside the judgment or order after hearing further arguments; or
 - 15 (ii) certifies, or is deemed to have certified, that he requires no further arguments.

(4) For the avoidance of doubt, a party to the hearing may, but is not required to, request for further arguments before he files a notice of appeal in respect of the judgment or order.”.

20 **Amendment of section 30**

8. Section 30 of the principal Act is amended —

- (a) by deleting subsection (2) and substituting the following subsection:
 - 25 “(2) Notwithstanding subsection (1), the Court of Appeal in the exercise of its civil jurisdiction shall, if it consists of 2 Judges of Appeal, be duly constituted for the purpose of hearing and determining —
 - (a) an application to extend the time for filing and serving a notice of appeal;
 - 30 (b) an application to discharge or vary any direction or order made under section 36(1);
 - (c) an appeal against an interlocutory judgment;

- (d) an appeal against any judgment or order obtained after the hearing of an assessment of damages;
 - (e) an appeal against any judgment or order obtained after the hearing of a taking of accounts between parties; or
 - (f) an appeal against any judgment or order obtained after any proceedings other than the trial or hearing of any action or matter commenced by any originating process.”; and
- (b) by inserting, immediately after subsection (3), the following subsection:
- “(3A) No Judge of Appeal shall sit as a member of the Court of Appeal on the hearing of an application to discharge or vary any direction or order made by him under section 36(1).”.

Amendment of section 34

9. Section 34 of the principal Act is amended —

- (a) by deleting paragraphs (a), (b) and (c) of subsection (1) and substituting the following paragraph:

“(a) where a Judge makes an order specified in the Fourth Schedule, except in such circumstances as may be specified in that Schedule;”;
- (b) by deleting the words “the Court of Appeal or” in subsection (2);
- (c) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:

“(a) where the amount in dispute, or the value of the subject-matter, at the hearing before the High Court (excluding interest and costs) does not exceed \$250,000 or such other amount as may be specified by an order made under subsection (3);”;
- (d) by deleting paragraph (d) of subsection (2) and substituting the following paragraph:

“(d) where a Judge makes an order specified in the Fifth Schedule, except in such circumstances as may be specified in that Schedule; or”; and

- (e) by deleting subsection (2A) and substituting the following subsections:

“(2A) Subsection (2)(a) shall not apply to any case heard and determined by the High Court in the exercise of its original jurisdiction under —

(a) section 17A;

(b) section 59 or Part X of the Women’s Charter; or

(c) any written law which requires that case to be heard and determined by the High Court in the exercise of its original jurisdiction.

(2B) An order of a Judge giving or refusing leave under subsection (2) shall be final.”.

Amendment of section 36

10. Section 36(3) of the principal Act is amended by inserting, immediately after the word “Every”, the words “direction or”.

Amendment of section 74

11. Section 74 of the principal Act is amended —

(a) by deleting the words “, whether in the High Court or in any subordinate court, and” in subsection (1) and substituting the words “in any court or subordinate court,”;

(b) by inserting, immediately after the words “any court” in subsection (1)(a) and (b), the words “or subordinate court”;

(c) by deleting the words “is unable on account of poverty” in subsection (2) and substituting the words “satisfies the High Court that he lacks the means”; and

(d) by inserting, immediately after subsection (4), the following subsection:

“(5) In this section, “legal proceedings” includes any proceedings, process, action, application or appeal in any civil matter or criminal matter.”.

Repeal and re-enactment of section 75

12. Section 75 of the principal Act is repealed and the following section substituted therefor:

“Disqualification of Registrar

5 **75.**—(1) Except with the approval of the Chief Justice, the Registrar, the Deputy Registrar and an Assistant Registrar —

(a) shall not be capable of —

(i) accepting or taking any other office of emolument; or

(ii) carrying on any business either directly or indirectly;
10 and

(b) shall not accept any fees of office, perquisites, emoluments or advantages, other than his salary and allowances.

(2) Without prejudice to the generality of subsection (1), the Registrar, the Deputy Registrar and an Assistant Registrar may, with
15 the approval of the Chief Justice —

(a) be appointed to any commission of inquiry, committee of inquiry or other judicial, quasi-judicial or administrative tribunal, or hold any office in any institution or society for charitable purposes or for the advancement or
20 encouragement of art, science, education or other knowledge; and

(b) receive an allowance or other honorarium in respect of that appointment or office.”.

New section 83

25 **13.** The principal Act is amended by inserting, immediately after section 82, the following section:

“Amendment of Third, Fourth and Fifth Schedules

30 **83.**—(1) The Minister may, after consulting the Chief Justice, by order published in the *Gazette*, amend the Third, Fourth or Fifth Schedule.

5 **14.** The principal Act is amended by inserting, immediately after the
Second Schedule, the following Schedules:

ORDERS MADE BY DISTRICT COURT OR MAGISTRATE'S COURT THAT ARE NON-APPEALABLE

(d) where a District Court or Magistrate's Court makes an order setting aside a default judgment on condition that the party against whom the judgment had been entered pays into court or gives security for the sum claimed, regardless of how the default judgment was obtained (including whether by reason of a breach of an order of court or otherwise), except if the appellant is that party.

ORDERS MADE BY JUDGE THAT ARE NON-APPEALABLE

(a) where a Judge makes an order giving unconditional leave to defend any proceedings;

- (b) where a Judge makes an order giving leave to defend any proceedings on condition that the party defending those proceedings pays into court or gives security for the sum claimed, except if the appellant is that party;
- 5 (c) where a Judge makes an order setting aside unconditionally a default judgment, regardless of how the default judgment was obtained (including whether by reason of a breach of an order of court or otherwise);
- 10 (d) where a Judge makes an order setting aside a default judgment on condition that the party against whom the judgment had been entered pays into court or gives security for the sum claimed, regardless of how the default judgment was obtained (including whether by reason of a breach of an order of court or otherwise), except if the appellant is that party;
- (e) where a Judge makes an order refusing to strike out —
 - (i) an action or a matter commenced by a writ of summons or by any other originating process; or
 - 15 (ii) a pleading or a part of a pleading;
- (f) where a Judge makes an order giving or refusing further and better particulars;
- (g) where a Judge makes an order giving leave to amend a pleading, except if —
 - 20 (i) the application for such leave is made after the expiry of any relevant period of limitation current at the date of issue of the writ of summons; and
 - (ii) the amendment is an amendment to correct the name of a party or to alter the capacity in which a party sues, or the effect of the amendment will be to add or substitute a new cause of action;
- 25 (h) where a Judge makes an order refusing security for costs;
- (i) where a Judge makes an order giving or refusing interrogatories.

FIFTH SCHEDULE

Sections 34(2)(d) and 83

ORDERS MADE BY JUDGE 30 THAT ARE APPEALABLE ONLY WITH LEAVE

Except with the leave of a Judge, no appeal shall be brought to the Court of Appeal in any of the following cases:

- (a) where a Judge makes an order refusing leave to amend a pleading, except if —

- (i) the application for such leave is made after the expiry of any relevant period of limitation current at the date of issue of the writ of summons; and
- (ii) the amendment is an amendment to correct the name of a party or to alter the capacity in which a party sues, or the effect of the amendment will be to add or substitute a new cause of action;
- (b) where a Judge makes an order giving security for costs;
- (c) where a Judge makes an order giving or refusing discovery or inspection of documents;
- (d) where a Judge makes an order refusing a stay of proceedings;
- (e) where a Judge makes an order at the hearing of any interlocutory application other than an application for any of the following matters:
 - (i) for summary judgment;
 - (ii) to set aside a default judgment;
 - (iii) to strike out an action or a matter commenced by a writ of summons or by any other originating process, a pleading or a part of a pleading;
 - (iv) to dismiss an action or a matter commenced by a writ of summons or by any other originating process;
 - (v) for further and better particulars;
 - (vi) for leave to amend a pleading;
 - (vii) for security for costs;
 - (viii) for discovery or inspection of documents;
 - (ix) for interrogatories to be varied or withdrawn, or for leave to serve interrogatories;
 - (x) for a stay of proceedings.”.

Transitional and savings provisions

15.—(1) Section 4(a) shall not apply to any decision of a District Court or Magistrate’s Court in any suit or action for the recovery of immovable property or in any civil cause or matter made before the date of commencement of this Act, and section 21(1) of the principal Act in force immediately before that date shall apply to any such decision as if section 4(a) had not been enacted.

(2) Sections 4(b) and 14, only in so far as they relate to the insertion of the new section 21(2B) of and the new Third Schedule to the principal Act, shall not apply to any order made by a District Court or Magistrate’s

Court that is specified in that Schedule, if that order is made before the date of commencement of this Act.

5 (3) Section 7 and section 9(a), only in so far as it relates to the deletion of section 34(1)(c) of the principal Act, shall not apply to any interlocutory order in chambers made by a Judge before the date of commencement of this Act, and section 34(1)(c) of the principal Act in force immediately before that date shall apply to any such order as if sections 7 and 9(a) had not been enacted.

10 (4) Sections 9(a) and 14, only in so far as they relate to the deletion and substitution of section 34(1)(a) of, the deletion of section 34(1)(b) of and the insertion of the new Fourth Schedule to the principal Act, shall not apply to any order made by a Judge that is specified in that Schedule, if that order is made before the date of commencement of this Act, and section 34(1)(a) and (b) of the principal Act in force immediately before
15 that date shall apply to any order referred to therein as if sections 9(a) and 14 had not been enacted.

(5) Section 9(b) shall not apply to any application made before the date of commencement of this Act for the leave of the Court of Appeal under section 34(2) of the principal Act in force immediately before that date,
20 and section 34(2) of the principal Act in force immediately before that date shall apply to any such application as if section 9(b) had not been enacted.

(6) Section 9(c) shall not apply to any decision of the High Court in any civil cause or matter made before the date of commencement of this Act,
25 and section 34(2)(a) of the principal Act in force immediately before that date shall apply to any such decision as if section 9(c) had not been enacted.

(7) Section 9(d) and section 14, only in so far as it relates to the insertion of the new Fifth Schedule to the principal Act, shall not apply to
30 any order made by a Judge that is specified in that Schedule, if that order is made before the date of commencement of this Act, and section 34(2)(d) of the principal Act in force immediately before that date shall apply to any order referred to therein as if sections 9(d) and 14 had not been enacted.

35 (8) Section 9(e), only in so far as it relates to the insertion of the new section 34(2B) of the principal Act, shall not apply to any application made before the date of commencement of this Act for the leave of the

Court of Appeal under section 34(2) of the principal Act in force immediately before that date, and section 34(2) of the principal Act in force immediately before that date shall apply to any such application as if section 9(e), only in so far as it relates to the insertion of the new section
 5 34(2B) of the principal Act, had not been enacted.

EXPLANATORY STATEMENT

This Bill seeks to amend the Supreme Court of Judicature Act (Cap. 322) for the following main purposes:

- (a) to reform the law relating to appeals to the High Court and the Court of Appeal;
- (b) to require the High Court to have regard to certain matters when exercising (or deciding whether to exercise) its supervisory and revisionary jurisdiction;
- (c) to provide for further arguments before a Judge exercising the civil jurisdiction of the High Court;
- (d) to restate the matters in respect of which the Court of Appeal in the exercise of its civil jurisdiction is, if it consists of 2 Judges of Appeal, duly constituted for the purpose of hearing and determining;
- (e) to restate when the High Court will assign an advocate and solicitor to a person against whom an order under section 74(1) is sought, and to clarify the scope of “legal proceedings” for the purposes of section 74; and
- (f) to enable the Chief Justice to give approval for the Registrar, the Deputy Registrar or an Assistant Registrar of the Supreme Court to do certain things which the Registrar, Deputy Registrar or Assistant Registrar would otherwise be disqualified from doing.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 16(1)(a) to clarify that the writ referred to in that provision is a writ of summons.

Clause 3 deletes paragraph (a) of section 20, as that paragraph is redundant.

Clause 4(a) deletes and substitutes subsection (1) of section 21 to restate the requirements which must be satisfied before an appeal can lie to the High Court from a decision of a District Court or Magistrate’s Court. A decision of a District Court or Magistrate’s Court —

- (a) is appealable as of right, in any case where the amount in dispute, or the value of the subject-matter, at the hearing before that District Court or Magistrate’s Court (excluding interest and costs) exceeds \$50,000 or such other amount as may be specified by an order made under section 21(3); or

- (b) is appealable only with the leave of that District Court or Magistrate's Court or the High Court, in any other case.

Clause 4(b) amends section 21 —

- (a) by inserting a new subsection (2A) to provide that an order of the High Court giving or refusing leave under the new section 21(1)(b) (to be inserted by clause 4(a)) will be final; and
- (b) by inserting a new subsection (2B) to provide that no appeal is to be brought to the High Court in any case where a District Court or Magistrate's Court makes an order specified in the new Third Schedule (to be inserted by clause 14), except in such circumstances as may be specified in that Schedule.

Clause 5 deletes and substitutes the sub-heading to Part III immediately before section 23, so as to better reflect the contents of the provisions which appear under that sub-heading (namely, sections 23 to 28, which deal with the supervisory and revisionary jurisdiction of the High Court).

Clause 6 amends section 27 by inserting a new subsection (4) to provide that the High Court will, when exercising (or deciding whether to exercise) its supervisory and revisionary jurisdiction or its powers under section 27(2) in relation to any matter which concerns a case where the High Court has heard and determined an appeal from a subordinate court, have regard to whether that matter was, or could reasonably have been, raised in that appeal.

Clause 7 inserts a new sub-heading to Part III (immediately after section 28A) and a new section 28B. The new sub-heading relates to further arguments in the High Court. The new section 28B provides for procedural matters relating to further arguments before a Judge exercising the civil jurisdiction of the High Court. As a corollary to the deletion of paragraph (c) of section 34(1) by clause 9(a), the new section 28B also provides, for the avoidance of doubt, that a party may, but is not required to, request for further arguments before he files a notice of appeal in respect of a judgment or order.

Clause 8(a) deletes and substitutes subsection (2) of section 30 to restate the matters in respect of which the Court of Appeal in the exercise of its civil jurisdiction is, if it consists of 2 Judges of Appeal, duly constituted for the purpose of hearing and determining. Those matters are as follows:

- (a) an application to extend the time for filing and serving a notice of appeal;
- (b) an application to discharge or vary any direction or order made under section 36(1);
- (c) an appeal against an interlocutory judgment;
- (d) an appeal against any judgment or order obtained after the hearing of an assessment of damages;
- (e) an appeal against any judgment or order obtained after the hearing of a taking of accounts between parties; and

- (f) an appeal against any judgment or order obtained after any proceedings other than the trial or hearing of any action or matter commenced by any originating process.

Clause 8(b) amends section 30 by inserting a new subsection (3A) to provide that no Judge of Appeal is to sit as a member of the Court of Appeal on the hearing of an application to discharge or vary any direction or order made by him under section 36(1).

Clause 9(a) replaces the existing paragraphs (a) and (b) of section 34(1) with a new paragraph (a) of section 34(1). The new section 34(1)(a) provides that no appeal is to be brought to the Court of Appeal in any case where a Judge makes an order specified in the new Fourth Schedule (to be inserted by clause 14), except in such circumstances as may be specified in that Schedule. The existing paragraphs (a) and (b) of section 34(1) are no longer required, as the matters referred to in those paragraphs will now be referred to in the new Fourth Schedule.

Clause 9(a) also deletes paragraph (c) of section 34(1), so that it is no longer a requirement for a party to apply for further argument in court before he can bring an appeal to the Court of Appeal against an interlocutory order made by a Judge in chambers.

Clause 9(b) amends section 34(2) to provide that where a matter is appealable to the Court of Appeal only with leave, that leave must be obtained from a Judge and not the Court of Appeal.

Clause 9(c) deletes and substitutes paragraph (a) of section 34(2) to restate the matters referred to in that paragraph. Under the new section 34(2)(a), except with leave, no appeal is to be brought to the Court of Appeal in any case where the amount in dispute, or the value of the subject-matter, at the hearing before the High Court (excluding interest and costs) does not exceed \$250,000 or such other amount as may be specified by an order made under section 34(3).

Clause 9(d) deletes and substitutes paragraph (d) of section 34(2). The existing paragraph (d) of section 34(2) is deleted, as the matter referred to in that paragraph will now be referred to in the new Fourth Schedule (to be inserted by clause 14) and dealt with under section 34(1)(a) (as amended by clause 9(a)). The new section 34(2)(d) provides that except with leave, no appeal is to be brought to the Court of Appeal in any case where a Judge makes an order specified in the new Fifth Schedule (to be inserted by clause 14), except in such circumstances as may be specified in that Schedule.

Clause 9(e) deletes and substitutes subsection (2A) of section 34 to extend the non-application of section 34(2)(a) (as amended by clause 9(c)) to any case heard and determined by the High Court in the exercise of its original jurisdiction under any written law which requires that case to be heard and determined by the High Court in the exercise of its original jurisdiction, in addition to any case heard and determined by the High Court in the exercise of its original jurisdiction under section 17A, or under section 59 or Part X of the Women's Charter (Cap. 353) (which is the existing position).

Clause 9(e) also amends section 34 by inserting a new subsection (2B) to provide that an order of a Judge giving or refusing leave under section 34(2) (as amended by clause 9(b)) will be final.

Clause 10 amends section 36(3) to clarify that every direction or order made by a Judge under section 36(1) may be discharged or varied by the Court of Appeal.

Clause 11(a) and (b) makes technical amendments to section 74(1).

Clause 11(c) amends section 74(2) to require a person against whom an order is sought under section 74(1) to satisfy the High Court that he lacks the means to retain an advocate and solicitor, as a condition for the High Court to assign one to him.

Clause 11(d) amends section 74 by inserting a new subsection (5) to clarify that for the purposes of section 74, “legal proceedings” includes any proceedings, process, action, application or appeal in any civil matter or criminal matter.

Clause 12 repeals and re-enacts section 75 to enable the Chief Justice to give approval for the Registrar, the Deputy Registrar and an Assistant Registrar of the Supreme Court —

- (a) to accept or take any other office of emolument or carry on any business;
- (b) to accept any fees of office, perquisites, emoluments or advantages, other than his salary and allowances; and
- (c) in particular —
 - (i) to be appointed to any commission of inquiry, committee of inquiry or other judicial, quasi-judicial or administrative tribunal, or hold any office in any institution or society for charitable purposes or for the advancement or encouragement of art, science, education or other knowledge; and
 - (ii) to receive an allowance or other honorarium in respect of that appointment or office.

Clause 13 inserts a new section 83 to enable the Minister for Law, after consulting the Chief Justice, to amend the new Third, Fourth or Fifth Schedule (to be inserted by clause 14) by order published in the *Gazette*.

Clause 14 inserts the new Third, Fourth and Fifth Schedules to specify the orders and circumstances contemplated for the purposes of the new sections 21(2B) and 34(1)(a) and (2)(d) (to be inserted by clauses 4(b) and 9(a) and (d)).

Clause 15 relates to transitional and savings provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
